

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

TUESDAY, THE 16TH OCTOBER 2007 / 24TH ASWINA 1929

MACA.No. 793 of 2003()

OPMV.493/1996 of MOTOR ACCIDENT CLAIMS TRIBUNAL, IRINJALAKUDA
.....

APPELLANT/PETITIONER IN OP (MV):

N. SURENDRAN, S/O. NARAYANAN,
"BIBITHA MANDIRAM", KARUVILA HOUSE,
KOTTARAKKARA P.O., QUILON DISTRICT.

BY ADV. SRI.P.V.BABY

RESPONDENTS: RESPONDENTS IN OP (MV):

1. P.D. BABU, S/O. DEVASSY,
ULIKKAN HOUSE, WEST FORT, THRISSUR.

* 2. SHAJI THOMAS, S/O. THOMAS,
VANCHIPURAKKAL HOUSE, PULLOOR,
THRISSUR DISTRICT. **(deleted)**

(R2 IS DELETED FROM THE PARTY ARRAY AT THE RISK OF THE
APPELLANT AS PER ORDER DATED 1.8.2007 IN I.A.NO.1601/07)

3. THE ORIENTAL INSURANCE CO.LTD.,
WEST FORT, THRISSUR.

BY ADV. SRI.B.JAYASANKAR
SRI.P.K.SAJEEV
DR.ELIZABETH VARKEY

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY
HEARD ON 16/10/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

K.PADMANABHAN NAIR, J.

M.A.C.A.No. 793 of 2003

Dated this the 16th October, 2007.

J U D G M E N T

Petitioner in O.P.(M.V.) No.493/1996, on the file of the Motor Accidents Claims Tribunal, Irinjalakuda, is the appellant. The appeal is filed against the award passed by the Tribunal, by which it awarded a compensation of Rs.42,000/= to the appellant. Appellant sustained injuries in a motor vehicle accident on 9.2.1996. He claimed a compensation of Rupees One Lakh, impleading the owner, driver and insurer of the vehicle. Appellant was working as a Non-Medical Supervisor in the Taluk Headquarters Hospital, Chalakudy, and was drawing a salary of Rs.6000/= per month. The owner and driver did not contest the matter. Insurer alone contested the matter. Negligence alleged against the Insurer was denied. It was contended that the accident occurred due to the negligence of the appellant himself. Existence of a valid policy was admitted. Quantum of compensation was denied. The Tribunal found that the accident occurred due to the negligence of the driver of the auto rickshaw. An amount of Rs.42,000/= was awarded as compensation, and the Insurer was directed to pay the amount. Challenging that compensation, this appeal is filed.

2. The only question arising for consideration in this appeal is whether the appellant is entitled to get any additional compensation. Compensation awarded for loss of earnings, pain and sufferings, disability etc. are very reasonable. But the Tribunal ought to have awarded an amount of Rs.5000/= more towards loss of amenities, discomforts and inconvenience caused to him. So, the appellant is entitled to get an additional amount of Rs.5000/= with 6% interest from the date of petition, till the date of realisation.

In the result, the appeal is allowed in part. An award is passed allowing the appellant to recover an amount of Rs.5000/= as additional compensation from the respondents with 6% interest from the date of petition, till the date of realisation. The 3rd respondent, Insurer, is directed to deposit the above amount in favour of the appellant. On deposit, the appellant can withdraw the amount.

**K.PADMANABHAN NAIR,
JUDGE**

nj.